

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
PETITION FOR
REHEARING**

UNITED STATES
COURT OF APPEALS
FOR THE SECOND CIRCUIT

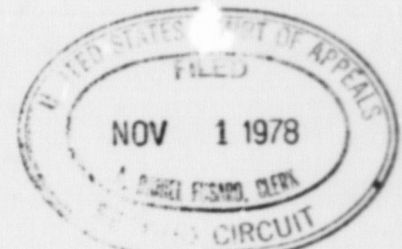
HARVEY S. KORNIT,
PETITIONER-APPELLANT,

V.

BOARD OF EDUCATION
PLAINVIEW-OLD BETHPAGE
SCHOOL DISTRICT
PLAINVIEW, NEW YORK,
RESPONDENT-APPELLEE.

DOCKET NO. 75-7540

NOTICE OF SUPPLEMENT
TO PETITION FOR
REHEARING



TO: CAMPANELLA, ZOLOTOROF & GUERCIO, ESQS.

PLEASE TAKE NOTICE that a Supplement to the Petition for Rehearing, submitted on October 16, 1978, will be submitted this date to the United States Court of Appeals for the Second Circuit at the United States Courthouse, Foley Square, New York, New York, on behalf of the appellant pro se, Harvey S. Kornit, in the above-captioned action.

Dated: October 31, 1978

Harvey S. Kornit

HARVEY S. KORNIT
Appellant pro se
70-25 Yellowstone Blvd.
Forest Hills, N.Y. 11375
212-261-8578

TO: CAMPANELLA, ZOLOTOROF & GUERCIO, ESQS.
Attorneys for Appellee
Office and P.O. Address
980 Old Country Road
Plainview, New York 11803

UNITED STATES
COURT OF APPEALS
FOR THE SECOND CIRCUIT

HARVEY S. KORNI^T,
PETITIONER-APPELLANT,

DOCKET NO. 75-7540

V.

BOARD OF EDUCATION
PLAINVIEW-OLD BETHPAGE
SCHOOL DISTRICT
PLAINVIEW, NEW YORK,
RESPONDENT-APPELLEE.

SUPPLEMENT TO PETITION FOR REHEARING

The petitioner, Harvey S. Kornit, the appellant pro se in the above-captioned action hereby submits a Supplement to the Petition for Rehearing in support of appellant's position that the Taylor Law penalty provisions allow adjudication by parties with a vested pecuniary interest so that fines collected serve a major budgetary purpose and such provisions may be the very cause for a work stoppage to have taken place in the first instance.

The petitioner submits the following excerpt from an article in the New York State Educators Association bi-weekly journal, NYEA Advocate, dated October 23, 1978, Vol V, No. 4, which contains a significant pertinent quote by Perry R. Duryea, the Republican candidate for the governorship of New York State and presently the New York State Assembly Minority Leader. The article is entitled "Push On For Duryea, Abrams and Regan"; and the quotation appears under the sub-heading " NYEA Having Impact". The

excerpt reads as follows:

NYEA Having Impact

As a result of a close working relationship between Duryea campaign officials and NYEA, Duryea has announced several strong positions on issues of critical importance to teachers.

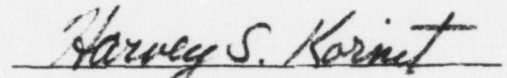
On the Taylor Law, Duryea has said that he is "unequivocally opposed to the practice of public employers encouraging strikes in order to collect the fine money and thereby eliminate their deficits or simply bolster their budgets."

"As governor I will see to it that the law is changed," Duryea said, "so as to eliminate the possibility of employers using the 2-for-1 penalty as a money making device. I propose to put teeth in PERB's authority to enforce good faith negotiations by providing that where PERB finds the employer guilty of "extreme provocation" of a strike, the two-for-one -- the second day's pay -- levied against the employee shall be returned to the employees."

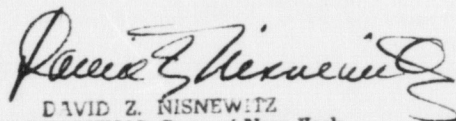
Mr. Duryea apparently sees the problem, but his cosmetic solution, as those offered by others who do not want to attack the problem directly, is no solution. The problem lies in the fact that the temptation of lucrative financial benefits through fines exists so that the collective bargaining process is corrupted in the first instance, and to this injury is added the further insult of adjudication by the very party with the pecuniary interest in utter violation of the most basic tenets of Constitution Due Process. Even if Mr. Duryea's proposal were ever enacted it would simply perpetuate the basic unconstitutionality of the Taylor Law penalty provisions.

This petitioner respectfully implores the Court to find that the Taylor Law penalty provisions are unconstitutional on their face and as applied, so that the inhumanity and other evils under these penalty provisions may cease.

Respectfully submitted,


HARVEY S. KORNIT
Petitioner pro se
70-25 Yellowstone Blvd.
Forest Hills, N.Y. 11375
212-261-8578

Sworn to before me this
31st day of October, 1978


DAVID Z. NISNEWITZ
NOTARY PUBLIC, State of New York
No. 24-9149-41
Qualified in Kings County
Certificate filed in New York County
Term Expires March 30, 1980

The undersigned, an attorney admitted to practice in the courts of New York State,

☐ Certification by Attorney certifies that the within has been compared by the undersigned with the original and found to be a true and complete copy.

☐ Attorney's Affirmation shows: deponent is

the attorney(s) of record for

in the within action; deponent has read the foregoing and knows the contents thereof; the same is

true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true. This verification is made by deponent and not by

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Dated:

.....
The name signed must be printed beneath

STATE OF NEW YORK, COUNTY OF

ss.:

being duly sworn, deposes and says: deponent is

☐ Individual Verification

the

the foregoing deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters deponent believes it to be true.

☐ Corporate Verification

the a

of corporation,

in the within action; deponent has read the and knows the contents thereof; and the same

is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true. This verification is made by deponent because

is a corporation and deponent is an officer thereof.

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

Sworn to before me on

19

.....
The name signed must be printed beneath

STATE OF NEW YORK, COUNTY OF Queens

ss.: Carole Nisnewitz

being duly sworn, deposes and says: deponent is not a party to the action,

is over 18 years of age and resides at 70-25 Yellowstone Blvd., Forest Hills, N.Y. 11803

☒ Affidavit of Service By Mail

On October 31, 1978 deponent served the within Notice & Supplement to Petition for Rehearing upon Campanella, Zolotorofe & Guercio, Esqs. in this action, at 980 Old Country Road,

Plainview, New York 11803 the address designated by said attorney(s) for that purpose by depositing a true copy of same enclosed in a post-paid properly addressed wrapper, in — a post office — official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

Check Applicable Box

☐ Affidavit of Personal Service

On 10/31/78 at deponent served the within

upon

herein, by delivering a true copy thereof to h

personally. Deponent knew the therein.

person so served to be the person mentioned and described in said papers as the

Sworn to before me on October 31, 1978

DAVID Z. NISNEWITZ
NOTARY PUBLIC, State of New York
No. 24-8148040
Qualified in Kings County
Certificate filed in New York County
Term Expires March 30, 1980

.....
The name signed must be printed beneath
Carole Nisnewitz

NOTICE OF ENTRY

Sir:—Please take notice that the within is a (certified)
true copy of a
duly entered in the office of the clerk of the within
named court on 19

Dated,

Yours, etc.,

Attorney for

Office and Post Office Address

To

Attorney(s) for

NOTICE OF SETTLEMENT

Sir:—Please take notice that an order

of which the within is a true copy will be presented
for settlement to the Hon.

one of the judges of the within named Court, at

on 19

at M.

Dated,

Yours, etc.,

Attorney for

Office and Post Office Address

To

Attorney(s) for

DOCKET
No. 75-7540

Year 1975

UNITED STATES
COURT OF APPEALS
FOR THE SECOND CIRCUIT

HARVEY S. KORNIT,
Petitioner,

v.

BOARD OF EDUCATION
PLAINVIEW-OLD BETHPAGE
SCHOOL DISTRICT
PLAINVIEW, NEW YORK,
Respondent.

NOTICE AND
SUPPLEMENT TO PETITION
FOR REHEARING

HARVEY S. KORNIT

~~Attorney~~ Petitioner pro se

Office and Post Office Address, Telephone

70-25 Yellowstone Blvd.
Forest Hills, N.Y. 11375
212-261-8578

To
CAMPANELLA, ZOLOTOROF & GUERCIO, ESQS.

Attorney(s) for
Respondent

Service of a copy of the within

is hereby admitted.

Dated,

Attorney(s) for